

BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Annual Reports for the Year Ended December 31, 2002, Filed by
Incumbent Local Exchange Carriers on a Confidential Basis

CONFIDENTIALITY DETERMINATION

Background

Incumbent local exchange carriers ("ILECs") are required to file an ILEC annual report with the Commission. The statutory filing date for the ILEC annual report covering 2002 calendar year operations is April 1, 2003; 85 ILECs are required to file this report for the 2002 calendar year. The Commission has the authority to compel the filing of this annual report pursuant to Wis. Stat. § 196.07.¹ The Commission has authority to grant provisional confidential treatment to the filed information under Wis. Stat. § 196.14.² ILECs may request that the Commission hold confidential the annual report or portions thereof pursuant to Wis. Admin. Code § PSC 2.12 (2002). This confidentiality determination is made pursuant to Wis. Admin. Code § PSC 2.12, and the Commission's November 21, 2000, Order delegating responsibilities for confidential determinations to Division Administrators and/or to the Administrative Law Judge.

¹ Wis. Stat. § 196.07 provides in part:

(1) Each public utility shall close its accounts annually on December 31 and promptly prepare a balance sheet of that date. On or before the following April 1 every public utility shall file with the commission the balance sheet together with any other information the commission prescribes, verified by an officer of the public utility. The commission, for good cause shown, may extend the time for filing the balance sheet and prescribed information.

² Wis. Stat. § 196.14 provides:

The commission may withhold from public inspection any information which would aid a competitor of a public utility in competition with the public utility.

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Background

On February 5, 2002, the Commission issued a Confidentiality Determination concerning the 2001 ILEC annual report filings.³ The Commission finds it reasonable to apply those findings of its Confidentiality Determination, as explained herein, to 2002 annual report filings. The Commission also finds it reasonable to dispense with the administrative burden of requiring that Confidentiality Request forms and notarized affidavits accompany the filing of the annual reports, as initiated with the 2001 ILEC annual report filings.

For the 2002 ILEC annual report program, which was released on January 15, 2003, the Commission has continued a paperless filing process, including neither a completed Confidentiality Request form nor a notarized affidavit. The 2002 ILEC program contains padlocks allowing users to file selected information on a confidential basis by locking the padlock next to the protected data. However, padlocks are only provided for information eligible for provisional confidential treatment as set forth in the Commission's February 5, 2002, Confidentiality Determination. All 2002 ILEC annual report filings must be accomplished via e-mail, with an encrypted, zipped attachment containing the exported 2002 annual report information, together with an export status report, edit check listing, and listing of schedules with confidential locks.

The Commission herein makes a consolidated confidentiality determination applying to all ILECs based on its earlier determination concerning the 2001 ILEC annual report filings, in

³ On September 27, 2002, the Commission issued a Confidentiality Determination denying provisional confidential treatment for items in the 2001 ILEC annual reports filed by Verizon North Inc.--Illinois Operations and Verizon North Inc.--Wisconsin Operations, above that granted confidential treatment in the February 5, 2002, Confidentiality Determination.

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order to facilitate the operation of the 2002 annual report program, including the paperless filing feature for the 2002 ILEC annual reports, which are due April 1, 2003.

The handling of confidential information requires the Commission to balance the concerns of the parties submitting confidential commercial or financial information and that of the interest of the public in accessing that information. This careful balancing of competing interests affects both the competitive nature of the telecommunications industry and the performance of the Commission's public responsibilities. As the telecommunications industry becomes increasingly competitive, companies increasingly assert that the information they provide to the Commission is competitively sensitive.

Generally, the ILECs assert that the information provided, if released, would aid a competitor. As explained below, the Commission's February 5, 2002, determination and this determination agree in part and disagree in part with those assertions. However, it is difficult to reconcile confidential treatment of annual reports for some ILECs with annual reports of other companies that have not sought the same. Those companies that have filed public annual reports in past years (and will be filing 2002 ILEC reports) include small companies (three or fewer exchanges), large companies (four or more exchanges), privately-held companies and cooperatives.

Confidential treatment of information in 2002 ILEC annual reports is granted in part and denied in part.

Based on the Commission's February 5, 2002, Confidentiality Determination concerning the 2001 ILEC annual report, the Commission grants confidentiality to those ILEC annual

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reports seeking confidentiality with respect to selected information, contained on the following 2002 ILEC annual report schedules: Affiliated Interest Transactions (p. 15); Affiliated Assets and Liabilities (p. 16); Revenues (p. 40); Calculation of Assessable Revenues for Universal Service Fund Assessment Purposes (p. 43); Nonregulated Activities (p. 45); Service Data-End of Year (pp. 52-53); and Central Office Data-End of Year (p. 55).

The Commission grants confidentiality for ILECs with three or fewer exchanges and denies the same for ILECs with four or more exchanges with respect to selected information, to the extent it is filed on a confidential basis, that is company-wide data contained on the following 2002 ILEC annual report schedules: Telephone Calls and Minutes of Use Per Month (p. 47); Access Usage (p. 48); Special Access Circuits in Use at End of Year (p. 49); and Service Data (pp. 50-51). The Commission has in the past denied confidential treatment of company-wide information filed by the larger, multi-exchange companies on the grounds that company-wide information of this type does not aid a competitor. The number of exchanges over which the company-wide information is spread makes it difficult for competitors to target any one exchange. Thus, the Commission continues to find it reasonable that companies with four or more exchanges should make this information public on a company-wide basis. Because those companies with three or fewer exchanges can have their relatively small markets easily targeted, the Commission grants confidential treatment to those ILECs with three or fewer exchanges seeking confidential treatment with respect to the information covered by this paragraph.⁴

⁴ Separating the ILECs is also similar to the treatment given these entities by the Wisconsin Telephone Exchange Boundaries map, dated November 2001, for administrative ease.

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Finally, the Commission, based on its February 5, 2002, determination, denies confidential treatment for all other information contained in the 2002 ILEC annual report.

Provisional confidential treatment is **granted** for all ILECs with respect to the following schedules and identified information:

1. Affiliated Interest Transactions (p. 15)
 - a. Total Dollar Activity (for the year);
 - b. Percent of affiliate's business billed to all affiliated regulated utilities; and
 - c. If cost based, rate of return on equity or markup incorporated in billings.
2. Affiliated Assets and Liabilities (Balance End of Year (EOY) column) (p. 16)

(Respective Balance EOY amounts).
3. Revenues (This Year and Last Year columns) (p. 40)
 - a. Directory Revenue (5230);⁵
 - b. Rent Revenue (5240);⁵
 - c. Corporate Operations Revenue (5250);⁵
 - d. Miscellaneous Revenue (5260);⁵
 - e. Special Billing Arrangements Revenue (5261);
 - f. Customer Operations Revenue (5262);
 - g. Plant Operations Revenue (5263);
 - h. Other Incidental Regulated Revenue (5264);
 - i. Other Revenue Settlements (5269);
 - j. Total Miscellaneous Revenue (5260);

⁵ Accounts or categories used by Class B telephone utilities.

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- k. Interstate Billing and Collection Revenue;⁵
- l. Intrastate Billing and Collection Revenue;⁵
- m. Total Carrier Billing and Collection Revenue (5270);⁵ and
- n. Nonregulated Operating Revenue (5280).⁶
- 4. Calculation of Assessable Revenues for Universal Service Fund Assessment Purposes (This Year column) (p. 43)
 - a. Plus: Intrastate Payphone Revenues;
 - b. Plus (or Less) Other; and
 - c. Assessable Revenues for Universal Service Fund Assessment Purposes (if at least one of the earlier items in this schedule was accorded confidential treatment).
- 5. Nonregulated Activities (p. 45) (Respective nonregulated activities (if three or fewer in number)).
- 6. Service Data-End of Year (All columns by Exchange) (pp. 52-53)
 - a. Business Category
 - 1) 1-Party;
 - 2) 2-Party;
 - 3) 4-Party;
 - 4) PBX Trunks/System Trunks;
 - 5) Centrex Trunks;
 - 6) Centrex Lines;

⁶ Account 5280 is to be used only by those companies subject to dual jurisdiction for the 2002 calendar year.

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- 7) Key System Trunks;
- 8) Mobile (utility provided service);
- 9) Paging (utility provided service);
- 10) FX-Out (Switched);
- 11) Pay Telephone;
- 12) Coin-Operated Pay Telephone;
- 13) Independent Pay Telephone Provider; and
- 14) Other.

b. Residential Category

- 1) 1-Party;
- 2) 2-Party;
- 3) 4-Party;
- 4) FX-Out (Switched); and
- 5) Other.

c. Miscellaneous

- 1) WATS Lines-OutWATS;
- 2) WATS Lines-800 Service;
- 3) FX-In-intraLATA;
- 4) Special Access-intraLATA;
- 5) Special Access-interLATA;
- 6) Feature Group A Lines;
- 7) Feature Group B Trunks;

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- 8) Feature Group C Trunks;
 - 9) Feature Group D Trunks;
 - 10) TSPS-Trunks; and
 - 11) Cellular Trunks (Pub. Sw. Net.).
7. Central Office Data-End of Year (p. 55)
- a. ISDN Lines-In Use (BRI);
 - b. ISDN Lines-In Use (PRI);
 - c. xDSL-In use (# lines);
 - d. Switched 56 lines in use;
 - e. Digital Transmission Facilities: DS-1-In use;
 - f. Digital Transmission Facilities: DS-3-In use;
 - g. Video Information Service-In use (# lines); and
 - h. Fiber Transmission Facilities: Number of fiber strands working (LIT) in C.O.

These schedules contain detailed financial, nonregulated or other operating statistical data. Confidential treatment for the data identified above which is contained in these schedules is granted because this information would aid a competitor of a public utility.⁷ See Wis. Stat. § 196.14.

Provisional confidential treatment is **granted** for ILECs with three or fewer exchanges and **denied** for ILECs with four or more exchanges with respect to the following schedules and identified information:

⁷ This determination does not address the issue of trade secrets under Wis. Stat. § 134.90(1)(c).

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1. Telephone Calls and Minutes of Use Per Month (p. 47)
 - a. Local-Intra-Exchange;
 - b. Local-Extended Area Service;
 - c. Local-Extended Community Calling; and
 - d. Other Local-Undefined.
2. Access Usage (Billed minutes by Jurisdiction-Interstate; Intrastate; InterLATA; IntraLATA) (p. 48)
 - a. Feature Group A-Orig.;
 - b. Feature Group A-Term.;
 - c. Feature Group B-Orig.;
 - d. Feature Group B-Term.;
 - e. Feature Group C-Orig.;
 - f. Feature Group C-Term.;
 - g. Feature Group D-Orig.; and
 - h. Feature Group D-Term.
3. Special Access Circuits in Use at End of Year (InterLATA and IntraLATA Channel Terminations) (p. 49)
 - a. Voice grade;
 - b. 56 kbps;
 - c. 64 kbps (DS0);
 - d. 1.54 Mbps (DS-1);
 - e. 45 Mbps (DS-3);

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- f. SONET OC-1;
 - g. SONET OC-3;
 - h. SONET OC-12;
 - i. SONET OC-48; and
 - j. SONET OC-192.
- 4. Service Data (Total Company First of Year & End of Year columns) (pp. 50-51)
 - a. Business Category
 - 1) 1-Party;
 - 2) 2-Party;
 - 3) 4-Party;
 - 4) PBX Trunks/System Trunks;
 - 5) Centrex Trunks;
 - 6) Centrex Lines;
 - 7) Key System Trunks;
 - 8) Mobile (Utility Provided Service);
 - 9) Paging (Utility Provided Service);
 - 10) FX-Out (Switched);
 - 11) Pay Telephone;
 - 12) Coin-Operated Pay Telephone;
 - 13) Independent Pay Telephone Provider; and
 - 14) Other.

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b. Residential Category

- 1) 1-Party;
- 2) 2-Party;
- 3) 4-Party;
- 4) FX-Out (Switched); and
- 5) Other.

c. Miscellaneous

- 1) WATS Lines-OutWATS;
- 2) WATS Lines-800 Service;
- 3) FX-In-intraLATA;
- 4) Special Access-intraLATA;
- 5) Special Access-interLATA;
- 6) Feature Group A Lines;
- 7) Feature Group B Trunks;
- 8) Feature Group C Trunks;
- 9) Feature Group D Trunks;
- 10) TSPS-Trunks; and
- 11) Cellular Trunks (Pub. Sw. Net.).

Confidential treatment for the selected information contained in these schedules is granted for those ILECs with three or fewer exchanges because, due to the small number of exchanges for these ILECs, this information, albeit total company in nature, would aid a

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competitor of a public utility. *See* Wis. Stat. § 196.14. Confidential treatment for the information contained in these schedules is denied for those ILECs with four or more exchanges because, due to the larger number of exchanges for these ILECs, this total company information would not aid a competitor of a public utility.

Provisional confidential treatment is **denied** for all ILECs with respect to information contained elsewhere in the 2002 ILEC annual reports. Confidential treatment for this information is denied because this information is of a general nature that would not aid a competitor of a public utility.

Pursuant to its jurisdiction in Wis. Stat. §§ 196.02(1), 196.14, and other provisions of Wis. Stat. ch. 196 and Wis. Stat. §§ 19.32-.39, as may be pertinent hereto, the Commission grants and denies provisional confidential treatment to 2002 ILEC annual report schedules and associated information as set forth above.

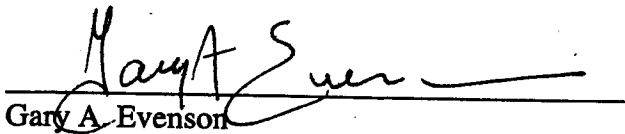
This confidentiality determination is not a final determination under the Public Records law; it is the Commission's initial decision for purposes of managing its files. This confidentiality determination does not prejudice the right of any person to submit a public records request to inspect the contents of the filings subject to this determination.

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The information for which provisional confidential treatment was denied shall be open to public scrutiny immediately upon filing of such information on a public basis by individual ILECs. This order is effective upon mailing.

Dated at Madison, Wisconsin, 29 January 2003

For the Commission:



Gary A. Evenson
Acting Administrator
Telecommunications Division

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See attached Notice of Appeal Rights

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Notice of Appeal Rights

Notice is hereby given that a person aggrieved by the foregoing decision has the right to file a petition for judicial review as provided in Wis. Stat. § 227.53. The petition must be filed within 30 days after the date of mailing of this decision. That date is shown on the first page. If there is no date on the first page, the date of mailing is shown immediately above the signature line. The Public Service Commission of Wisconsin must be named as respondent in the petition for judicial review.

Notice is further given that, if the foregoing decision is an order following a proceeding which is a contested case as defined in Wis. Stat. § 227.01(3), a person aggrieved by the order has the further right to file one petition for rehearing as provided in Wis. Stat. § 227.49. The petition must be filed within 20 days of the date of mailing of this decision.

If this decision is an order after rehearing, a person aggrieved who wishes to appeal must seek judicial review rather than rehearing. A second petition for rehearing is not an option.

This general notice is for the purpose of ensuring compliance with Wis. Stat. § 227.48(2), and does not constitute a conclusion or admission that any particular party or person is necessarily aggrieved or that any particular decision or order is final or judicially reviewable.

Revised 9/28/98